

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

BRIAN T. BAXTER AND SUSAN T.
KINNIRY

v.

PHILADELPHIA BOARD OF ELECTIONS,
REPUBLICAN NATIONAL COMMITTEE,
AND REPUBLICAN PARTY OF
PENNSYLVANIA

PETITION OF: REPUBLICAN NATIONAL
COMMITTEE AND REPUBLICAN PARTY
OF PENNSYLVANIA

: No. 395 EAL 2024
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: Petition for Allowance of Appeal
: from the Order of the
: Commonwealth Court
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ORDER

PER CURIAM

AND NOW, this 17th day of January, 2025, the Petition for Allowance of Appeal is **GRANTED, LIMITED TO** the issues set forth below. Allocatur is **DENIED** as to all remaining issues. The issues, rephrased for clarity, are:

- (1) Did the Commonwealth Court err in barring enforcement of the Election Code's mail-in and absentee ballot envelope dating requirements, see 25 P.S. §§3146.6(a), 3150.16, upon the rationale that those requirements violate the "Free and Equal Elections Clause" found in Article I, Section 5 of the Pennsylvania Constitution?
- (2) If the Commonwealth Court did not so err, does its ruling activate the nonseverability clause included in Section 11 of the Act of October 31, 2019, Pub. L. 552, No. 77 ("Act 77") (see 25 P.S. §2602, Note), so as to require invalidation of the entirety of Act 77?

The Application to Intervene of Proposed Intervenor-Respondent and Proposed Answer to Petition for Allowance of Appeal filed by the Pennsylvania Democratic Party is **GRANTED**.

Respondents Brian T. Baxter and Susan T. Kinniry are **DIRECTED** to satisfy the requirements of Pa.R.A.P. 521(a) (relating to the provision of notice to the Attorney General of Pennsylvania of a constitutional challenge to a statute where neither the Commonwealth nor any officer thereof is a party).

Justice Donohue files a concurring and dissenting statement in which Justice McCaffery joins.